

Exhibit C

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

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CLERK U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

UNITED STATES ex rel. John Burns,

Plaintiffs,

vs.

Case no. 8:10-cv-1851-T-23EAJ

MEDTRONIC, INC., BOSTON
SCIENTIFIC CORP., and ST.
JUDE MEDICAL, INC.,

FILED UNDER SEAL

Defendants.

**UNITED STATES' MEMORANDUM IN SUPPORT OF SECOND
EX PARTE APPLICATION FOR EXTENSION OF SEAL ON
QUI TAM ACTION AND RELATED FILINGS, AND FOR EXTENSION
OF THE UNITED STATES' EVALUATION PERIOD**

Plaintiff-Relator filed this action under the False Claims Act, 31 U.S.C. §§ 3729-33, on or about August 18, 2010, on behalf of the United States. Service of the complaint and disclosure material was perfected upon the United States Attorney's Office on August 19, 2010.

The Relator is a current sales representative of the defendant Medtronic, Inc. in Manatee County, Florida. Defendants Medtronic, Inc., Boston Scientific, Inc., and St. Jude Medical, Inc. are medical device manufacturers based in Minneapolis, Minnesota, Natick, Massachusetts, and Little Canada, Minnesota, respectively. The Relator alleges Medtronic, Boston Scientific and St. Jude allow cardiologists who implant the defendants' pacemaker and defibrillator devices have those devices routinely checked by the defendants' sales personnel at no charge to the cardiologists. The defendants' salesmen perform this service using their own equipment and complete superbills for

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the cardiologists that indicate that the cardiologists performed the technical component work that the doctors have not performed. These defendants also permit the cardiologists to bill Medicare "globally" for the work that the salesmen perform, resulting in the submission of false claims to Medicare. According to the Relator, the practice of creating a billing opportunity for the cardiologists in this regard is a form of illegal remuneration that is offered with the expectation that the cardiologists will in turn use the defendants' pacemakers and devices in their patients' care. As such, and according to the Relator, the practices constitute an illegal kickback.

The United States has begun its investigation into the allegations of the Relator but will need additional time to perform its investigation. The Medicare contractor has responded to our request for claims data for Medtronic, and it appears to demonstrate that the cardiologists identified by the Relator have submitted claims to Medicare seeking global reimbursement for the testing of the devices in question, i.e., for the technical and professional components of the tests. Additional requests will need to be made to determine whether the same observations can be made for the other two defendants, Boston Scientific and St. Jude Medical, and also whether the billing practices of these three defendants extend (as the Relator alleges) across the nation or if they are more isolated in scope.

As we explained in our first application of this kind, there are other investigations arising from other qui tam cases on file in two other judicial districts, whose allegations overlap with those contained in the complaint in issue here. We are in the process of reviewing the documentary evidence developed in those other investigations, which is voluminous. An IG subpoena has been served directly upon one of the defendants,

Medtronic, that is expected to yield records that are relevant to this case and that will inform the Government's intervention decision here. Finally, we have begun to schedule the interviews of other former Medtronic employees in the Tampa Bay area, whom the Relator has identified as having knowledge of the practices he has alleged.

For these reasons, and with the Relator's consent, we respectfully ask the Court to extend the intervention deadline under the False Claims Act to and including August 14, 2011, and to maintain the Court's seal on this case for a corresponding length of time.

Respectfully submitted,

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